



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Infrastructure and Land Use Committee

Tuesday, March 8, 2005

9:30 AM

Commission Chamber

Charles Anderson, CPA
Commission Auditor

111 NW First Street, Suite 250
Miami, Florida 33128
305-375-4354

LEGISLATIVE ANALYSIS

RESOLUTION EXEMPTING THE SOUTH MIAMI-DADE WATERSHED PLAN ADVISORY COMMITTEE MEMBERS FROM CERTAIN PROVISIONS OF THE CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE

Department of Planning and Zoning

I. SUMMARY

This resolution would exempt members of the South Miami-Dade Watershed Plan Advisory Committee (SMWPAC) from the application of Sections 2-11.1(n) and (v) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

II. PRESENT SITUATION

The SMWPAC was created, in 2001, by the Board of County Commissioners in order to participate in the development of the South Miami-Dade Watershed Plan.

There are 30 seats on the SMWPAC and currently 1 vacancy.

The Department estimates that the actual South Miami-Dade Watershed Plan should be completed by November of this year at which time the Advisory Committee will automatically Sunset.

The State Legislature has appropriated approximately \$2 million and the County Water & Sewer and Planning & Zoning Departments have allocated approximately \$1 million for a total of \$3 million in funding towards the development of South Miami-Dade Watershed Plan.

There are currently approximately 96 County 'Citizen Advisory Committees', of which 18 were exempted from the Conflict of Interest Ordinance via Resolution R-340-03.

The following 18 committees, or advisory boards, are currently exempt from the Conflict of Interest and Code of Ethics Ordinance:

1. Affirmative Action Advisory Board
2. Aircraft Noise Abatement Task Force for MIA
3. Asian American Advisory Board
4. Bicycle/Pedestrian Advisory Committee
5. Black Affairs Advisory Board
6. Commission on Disability Issues
7. Commission for Women
8. Community Image Advisory Board
9. Community Relations Board Nominating Committee
10. Community Small Business Enterprise Program
11. Dial-A-Life Program Advisory and Oversight Board

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12. Domestic Violence Oversight Board
13. Equestrian Center Advisory Board
14. Hispanic Affairs Advisory Board
15. Minority and Women-Owned Business Advisory Board
16. Parks and Recreation Citizens Advisory Committee
17. Racial Profiling Advisory Board
18. Transportation Aesthetics Review Committee

III. POLICY CHANGE AND IMPLICATION

This resolution seeks and exemption from a current County Code.

This exemption would allow for current members of the SMWPAC to remain on the Committee without concern for possible conflicts.

IV. ECONOMIC IMPACT

None.

V. COMMENTS AND QUESTIONS

The following issue has provided the impetus for the SMWPAC to see these exemptions.

A current member of the SMWPAC works for a firm who holds contracts with at-least three (3) County Departments for professional services.

Under the County's Conflict of Interest Ordinance, this advisory committee member is concerned that their membership on the SMWPAC would render those contracts with the County void.

This person is not willing subject their company to that risk. The person has asked for a resolution of this issue prior attending further SMWPAC meetings.

The Department feels that this person's, as well as a number of other members of the committee's, expertise is vital towards creating a balanced plan.

Attached is a letter from the Builders Association of South Florida in support of this exemption.



Attachment#1



CAPSTONE SPONSORS



EXECUTIVE COMMITTEE

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Quantum

John McQuestion - First Vice President
Whitpool Corporation

Richard Herten - President-Elect
The Green Companies

Juan Carlos Enriquez - Second Vice President
The Sherwin-Williams Company

Paul Kohn Dwyer - Treasurer
Lowell Homes

Stella Cardata - Secretary
United Homes International, Inc.

Deborah Reyes - Assistant Secretary
Capital American Mortgage Company

Yola Rabell - Immediate Past President
Century Homebuilders, Inc.

Toni Pacelli-Hendley - Immediate Past First Vice President

Al Blager - Life Executive Committee Member
Singer & Associates, Inc.

Lesley Miller - Life Executive Committee Member
Pasadena Homes, Inc.

Nash Breckstone - Presidential Builder Appointee
Breakstone Homes, Inc.

Aramundo J. Cocanaga - Presidential Builder Appointee
WCI Communities

Joe Goldstein, Esq. - Presidential Associate Appointee
Akosman Senterfit & Edison, P.A.

Steven F. Klein - Presidential Associate Appointee
Gerson, Preston & Company, P.A.

Harry Fallick - Ex-Officio
Bonded Builders Home Warranty Association

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Caribe Homes

Rene Sierra
The Miami Herald/The Nuevo Herald

Harry Sonnenblum
Kiener Insurance Group, Inc.

James Worle
Dust & Young

March 4, 2005

Honorable Natacha Seijas, Chair
And Members
Infrastructure and Land Use Committee
Miami-Dade county Commission
111 NW First Street, 2nd Floor
Miami, FL 33128

- Re: Item 2H, Resolution re Conflict of Interest Waiver for South Miami-Dade Watershed Task Force, March 8 Committee Hearing.

Dear Chairwoman Seijas and Committee Members:

I am writing to you to express the support of the Builders Association of South Florida (BASF) for the above-referenced resolution. It comes before you for consideration on you Tuesday, March 8, 2005 agenda. As I will be out of town for your meeting, others may be presenting this position to you at the public hearing.

The Watershed Task Force has been working for nearly three years on this enormous study. The study's boundaries cover most of the southern half of our county and will affect nearly half of our population. The South Miami-Dade Watershed Plan Advisory Committee includes many members of the business community, representatives of stakeholder groups, residents and landowners whose livelihoods may be affected by the outcome of the Watershed Plan, but whose active participation is critical to the achievement of consensus.

The reason we believe the Commission's original intent in establishing this task force with local stakeholders was to provide maximum local input into this study. Every resident in our county could conceivably have a conflict of interest - simply because we live here. If the task force were to be "conflict-free", the Commission would have had to appoint people from outside Miami-Dade County. Clearly, BASF does not believe this was the Commission's intent. It would not be fair to have unaffected parties making decisions about the future of our own residents' property, homes and businesses.

Without the waiver, the entire Committee's existence could be threatened. If the land owners and industry representatives have to recuse themselves, which they could likely be, as this study will affect some part of their land and financial interests, the Committee will cease to function. They will not have a quorum. The only people left would be the park employees and the neighborhood and environmental groups.

Further, it could be construed that various Federal park employees who sit on the task force would have conflicts, as their principle - the Federal Government - owns thousands of acres of land that would be affected by the Plan. Under the County lobbyist ordinances, both employees and principles are considered lobbyists. In short, without the blanket waiver the committee and the plan will cease to exist.

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Chairwoman Seijas
March 3, 2005

By now, we hope it is clear why waiving the conflict of interest requirements for Watershed Task Force members is critically important. By adopting this resolution, the Commission will finally resolve this lingering matter.

We are told that the study should be complete by the end of this year. At such a critical time, it is even more important to conclude the study with members who represent a genuine cross section of the South Dade community, and be permitted to continue to participate as active members during the final phases of plan formulation. Thank you for your interest in the Association's views.

Sincerely,

Truly Burton

Truly Burton
Miami-Dade Government Affairs Director

cc: Roger Carlton, Watershed Task Force Chair and Members
Janice Fleischer, Esquire, Facilitator

LEGISLATIVE ANALYSIS

ORDINANCE ESTABLISHING 'BUILDING BETTER COMMUNITIES' GENNERAL OBLIGATION BOND PROGRAM ADVISORY COMMITTEE

Dr. Barbara Carey-Shuler

I. SUMMARY

This ordinance creates a 21 member *Building Better Communities* Citizen Advisory Committee (BBCCAC).

This Advisory Committee shall hold meetings no less than four (4) times per year in order to monitor the progress of the Building Better Communities Program, advise the Mayor, Board of County Commissioners, and County Manager on the progress of the program, and provide outreach efforts within the community to help educate the public on the status of projects contained within the General Obligation Bond program.

II. PRESENT SITUATION

There are currently 96 Citizen Advisory Committees, Boards, Councils, etc...

These committees are utilized to gain public in-put and advice for the Mayor, Board, and Manager, as well as oversee various County Programs in order to insure that these programs are providing their desired results.

III. POLICY CHANGE AND IMPLICATION

As demonstrated by the current number of these types of committees listed in the previous section, the creation of this advisory committee is consistent with County Policy.

IV. ECONOMIC IMPACT

The County Manager's memorandum compares the cost of support for this committee with that of the Safe Neighborhoods Parks Citizen Oversight Committee at approximately \$500,000 for FY 2004-2005.

However, because the Safe Neighborhoods Parks program is winding down, the Citizens Committee is meeting less frequently than when that program was at its peak.

It is likely that the costs for the Building Better Communities Citizens' Advisory Committee (BBCCAC) will be higher than the current budget for the SNP. These increased costs would be associated with Start-up costs for staffing and Operating Capital outlay associated with a first year advisory committee (Approx. 5 people including the director), increased public notice requirements, and the fact that the BBCCAC is a larger group than the SNP Oversight Committee

V. COMMENTS AND QUESTIONS

In recent years, some concerns have been raised regarding the inabilities of many County Boards to meet quorum requirements.

Because the BBCCAC meets quarterly, and has a large number of members, perhaps the problems related to quorum will not be as prevalent.

Further, some media sources have detailed strained relationships between the County Commission and the Citizens Independent Transportation Trust (CITT).

However, because the BBCCAC is "advisory" in nature and has not veto authority regarding the GOB projects, these problems encountered in the early years of the CITT should not be an issue.

LEGISLATIVE ANALYSIS

ITEM 3(I) ORDINANCE REPEALING ARTICLE I, SECTION 33-20.1 OF THE CODE RELATING TO PROHIBITION OF TOW TRUCKS

ITEM 3(J) ORDINANCE AMENDING ARTICLE VII, SECTION 33 124.1 OF THE CODE RELATING TO PARKING COMMERCIAL VEHICLES IN RESIDENTIALLY AND AGRICULTURALLY ZONED DISTRICTS.

Senator Javier D. Souto

I. SUMMARY

- Items 3(I) and 3(J) should be addressed collectively.
- Item 3(I) proposes an ordinance repealing the prohibition of tow trucks being stored in residential areas. This section is being repealed with the anticipation of passing Item 3(J).
- Item 3(J) is a very similar ordinance that addresses the storage of commercial vehicles in residential and agricultural zoned areas. Amendments have been proposed to provide tailored language addressing the identification of the respective vehicles.
- Repealing Item 3(I) and accepting amendments to Item 3(J) will include tow trucks as "commercial vehicles" for this legislation.

II. PRESENT SITUATION

- Many in the tow truck industry have challenged and questioned why tow trucks are treated differently than other commercial vehicles with respect to legislation restricting storage and parking.
- Some have argued there is a difference between tow trucks being stored in restricted areas versus other commercial marked vehicles.
- Prior to the outcome of a recent lawsuit, the Consumer Services Department did distinguish between commercial vehicles by licensing tow trucks. The department also provided the respective companies with a copy of the County Code relating to parking tow trucks in residential areas. The department used this approach to put companies on notice and provide them with an official warning.
- The Consumer Services Department has recently discontinued the licensing of tow trucks following a lawsuit from the industry. This lawsuit leaves the County with a weaker argument for distinguishing between the two groups.

INLUC ITEMS 3(I) & 3(J)

March 8, 2005

- This discrepancy has brought about lawsuits and Team Metro has struggled justifying that tow trucks should be treated different. Ultimately, it has been difficult for Team Metro to enforce Article I, Section 33-20.1 of the Code Relating to Prohibition of Tow Trucks.
- Further efforts enforcing the difference between tow trucks and other commercial vehicles, could subject the County to potential issues. These two pieces of legislation have been proposed by the Senator to resolve this matter.

LEGISLATIVE ANALYSIS

RESOLUTION RELATING TO EDUCATIONAL FACILITIES IMPACT FEES

Commissioner Bruno A. Barreiro

I. SUMMARY

This resolution directs the County Manager to take the necessary steps necessary to implement Florida Statute section 1002.33(18)(f), which provides for designation of educational facilities impact fees generated by new development to be utilized for the creation of Public Charter Schools to serve the respective development.

II. PRESENT SITUATION

- Miami-Dade County has impact fees collected from real estate developers to alleviate and offset the monetary impact of new expenses that would be placed solely on the constituents of the County.
- School Impact fees are one-time payments from real estate developers to school districts used to build school improvements needed to accommodate new real estate development.
(Agenda Item 6(M)(1)(A)- Resolution Approving First Amended Interlocal Agreement with School Board Regarding Impact Fees—July 25, 2000)
- In Miami-Dade County, an Impact Fee Rate Schedule (Attachment 1) determines the fee developers must pay. Impact fees for schools have a flat rate developers must pay per unit based upon the type of residential community being developed.

III. POLICY CHANGE AND IMPLICATION

- The County Manager is directed to take the necessary steps in implementing Florida Statute section 1002.33(18)(f), which will allow the funding of charter schools for new developments through the assistance of impact fees. (In Florida, all charter schools are public schools.)
- In theory, charter schools are created to expand the capacity of the public school system by providing innovative learning methods as well as opportunities to mitigate the educational impact of new developments.
- Allowing impact fees to go toward the creation of new charter schools will improve the timely construction of educational facilities needed to adjust to population expectations of new developments.

IV. ECONOMIC IMPACT

- While this proposal addresses the positive possibility of supporting newly developed charter schools there may be a negative impact to funding schools that are already in existence.
- It is premature to approximate the fiscal impact this will pose for the County or the School system because the County Manager has not established the necessary steps to implement such legislation.

V. COMMENTS AND QUESTIONS

1. How does the Miami-Dade Public Schools system feel about this proposal?
2. How will the current interlocal agreement between Miami-Dade County and Miami-Dade County Public Schools be affected by this proposal?
3. What type of fiscal impact will this have on the existing or non-existing schools in the Miami-Dade Public Schools system?
4. This item was deferred during the February 8, 2005, committee meeting.
 - The deferral was set to allow the Miami-Dade School District the opportunity to thoroughly look over the resolution and provide a presentation for the committee at a later date.

MIAMI-DADE COUNTY IMPACT FEE RATE SCHEDULE - Effective October 1, 1995

LAND USE	ROAD W 77 AVE	ROAD E 77 AVE	FIRE	POLICE	SCHOOL	PARKS DIST 1 N SW 8 ST	PARKS DIST 2 Middle	PARKS DIST 3 S SW 184 ST	UNITS
Port and Terminal									sq. ft.
Truck Terminals	\$1.55	\$1.477	\$0.1664	\$0.147					
Industrial									sq. ft.
Industrial Park	\$1.096	\$1.044	\$0.1664	\$0.147					sq. ft.
Manufacturing	\$0.605	\$0.577	\$0.1664	\$0.147					sq. ft.
Warehousing	\$0.767	\$0.731	\$0.1664	\$0.147					sq. ft.
Mini-Warehouse	\$0.41	\$0.391	\$0.1664	\$0.147					sq. ft.
Residential									
Single Family Detached	\$1,307	\$1,242	\$176.73	\$101.29	\$612.00	\$1,453.40	\$1,222.28	\$842.80	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,650.42	\$3,419.30	\$3,039.82	
						\$3,585.42	\$3,354.30	\$2,974.82	
plus (max. 3,800 sq. ft. per unit)					\$0.918				sq. ft.
Apartment (Rentals)	\$983	\$936	\$187.39	\$101.29	\$612.00	\$741.75	\$725.63	\$540.73	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$2,625.43	\$2,609.31	\$2,424.41	
						\$2,578.43	\$2,562.31	\$2,377.41	
plus (max. 3,800 sq. ft. per unit)					\$0.918				sq. ft.
Condominium	\$921	\$877	\$187.39	\$101.29	\$612.00	\$741.75	\$725.63	\$540.73	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$2,563.43	\$2,547.31	\$2,362.41	
						\$2,519.43	\$2,503.31	\$2,318.41	
plus (max. 3,800 sq. ft. per unit)					\$0.918				sq. ft.
Townhouse	\$921	\$877	\$187.39	\$101.29	\$612.00	\$1,247.01	\$998.68	\$785.83	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,068.69	\$2,820.36	\$2,607.51	
						\$3,024.69	\$2,776.36	\$2,563.51	
plus (max. 3,800 sq. ft. per unit)					\$0.918				sq. ft.
Mobile Home	\$756	\$720	\$176.73	\$101.29	\$612.00	\$1,453.40	\$1,222.28	\$842.80	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,099.42	\$2,868.30	\$2,488.82	
						\$3,063.42	\$2,832.30	\$2,452.82	
plus (max. 3,800 sq. ft. per unit)					\$0.918				sq. ft.
Lodging									
Hotel	\$1,094	\$1,042	\$0.3848	\$0.147					room/sq. ft.
Motel	\$1,281	\$1,220	\$0.3848	\$0.147					room/sq. ft.
Recreational									
Marina	\$465	\$443	\$0.2912	\$0.147					berth/sq. ft.
Golf Course	\$5,910	\$5,631	\$0.2912	\$0.147					hole/sq. ft.
Racquet Club	\$6,745	\$6,427	\$0.2912	\$0.147					Court/sq. ft.
Institutional									
Elementary School	\$31	\$30	\$0.2912	\$0.147					St. Sta./sq. ft.
High School	\$127	\$121	\$0.2912	\$0.147					St. Sta./sq. ft.
Jr./Community College	\$209	\$199	\$0.2912	\$0.147					St. Sta./sq. ft.
University	\$373	\$355	\$0.2912	\$0.147					St. Sta./sq. ft.
Church/Synagogue	\$0.857	\$0.817	\$0.2912	\$0.147					sq. ft.
Day Care Center	\$1.138	\$1.085	\$0.2912	\$0.147					sq. ft.
Medical									
Hospital	\$1.543	\$1.470	\$0.3848	\$0.147					sq. ft.
Nursing Home	\$239	\$228	\$0.3848	\$0.147					bed/sq. ft.
Office									
General Office Building									
1 - 50,000	\$2.607	\$2.484	\$0.2392	\$0.147					sq. ft.
50,001 - 100,000	\$2.206	\$2.102	\$0.2392	\$0.147					sq. ft.
100,001 - 200,000	\$1.863	\$1.775	\$0.2392	\$0.147					sq. ft.
200,001 - 300,000	\$1.693	\$1.614	\$0.2392	\$0.147					sq. ft.
300,001 - 400,000	\$1.566	\$1.492	\$0.2392	\$0.147					sq. ft.
400,001 - 500,000	\$1.486	\$1.416	\$0.2392	\$0.147					sq. ft.
500,001 - 600,000	\$1.423	\$1.356	\$0.2392	\$0.147					sq. ft.
600,001 - 700,000	\$1.376	\$1.311	\$0.2392	\$0.147					sq. ft.
700,001 - more	\$1.33	\$1.268	\$0.2392	\$0.147					sq. ft.
Medical Office Building	\$3.142	\$2.994	\$0.2392	\$0.147					sq. ft.
Research Center	\$1.211	\$1.154	\$0.2392	\$0.147					sq. ft.
Business Park	\$2.259	\$2.153	\$0.2392	\$0.147					sq. ft.
Retail									
1 - 10,000	\$2.408	\$2.294	\$0.2912	\$0.147					sq. ft.
10,001 - 50,000	\$1.317	\$1.255	\$0.2912	\$0.147					sq. ft.
50,001 - 100,000	\$1.015	\$0.967	\$0.2912	\$0.147					sq. ft.
100,001 - 200,000	\$2.606	\$2.483	\$0.2912	\$0.147					sq. ft.
200,001 - 300,000	\$2.367	\$2.256	\$0.2912	\$0.147					sq. ft.
300,001 - 400,000	\$3.766	\$3.589	\$0.2912	\$0.147					sq. ft.
400,001 - 500,000	\$3.585	\$3.417	\$0.2912	\$0.147					sq. ft.
500,001 - 600,000	\$3.486	\$3.322	\$0.2912	\$0.147					sq. ft.
600,001 - 800,000	\$3.409	\$3.249	\$0.2912	\$0.147					sq. ft.
800,001 - 1,000,000	\$3.431	\$3.269	\$0.2912	\$0.147					sq. ft.
1,000,001 - 1,200,000	\$3.474	\$3.311	\$0.2912	\$0.147					sq. ft.
1,200,001 - more	\$3.374	\$3.215	\$0.2912	\$0.147					sq. ft.
Services									
Nursery Garden	\$2.02	\$1.925	\$0.2912	\$0.147					sq. ft.
Quality Restaurant	\$11.38	\$10.845	\$0.2912	\$0.147					sq. ft.
High Turnover Restaurant	\$9.441	\$8.996	\$0.2912	\$0.147					sq. ft.
Fast Food Restaurant	\$9.081	\$8.654	\$0.2912	\$0.147					sq. ft.
Car Sales	\$5.649	\$5.384	\$0.2912	\$0.147					sq. ft.
Service Stations	\$2.103	\$2.004	\$0.2912	\$0.147					Pump/sq. ft.
Convenience Retail	\$10.602	\$10.103	\$0.2912	\$0.147					sq. ft.

Bank (Walk-in)	\$2.02	\$1.925	\$0.2392	\$0.147
Bank (Drive-in)	\$3.81	\$3.631	\$0.2392	\$0.147

sq. ft.
sq. ft.